

REMARKS

This Amendment responds to the Notice of Panel Decision from Pre-Appeal Brief Review mailed on August 7, 2008 and to the Final Office Action mailed on May 29, 2008. An RCE and Petition for a One Month Extension are filed herewith. The RCE reopens prosecution from a Notice of Appeal filed on July 11, 2008. By this Amendment, claims 26 and 33 are amended for clarity and new claim 41 is added. Reconsideration is respectfully requested in light of these amendments and the following remarks.

Examiner Interview

The undersigned thanks Examiner Lu for the courtesies extended during a telephone interview on August 28, 2008. During the interview, the rejections of claims 26 and 33 and the cited Achiwa reference were discussed. The Examiner also discussed the decision of the Pre-Appeal Brief Review Panel. During the interview, the Examiner agreed to conduct a new search for claims 26 and 33 if the claims were amended to further clarify that the mobile device verifies that copies of the one or more data items are stored in the server application database before the one or more data items are deleted from the memory subsystem on the mobile device. As discussed, this feature (among others) distinguishes the claims from the cited references.

Rejection of Claims 26-27 and 33-40

Independent claims 26 and 33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Mendez (U.S. 2003/0097358) in view of Achiwa (U.S. 2003/0110190). As explained in the Request for Pre-Appeal Brief Conference Review and during the August 28 telephone interview, neither of the cited references teach or suggest a memory management system or method for a mobile device that determines if additional memory space is needed on the mobile device, and then, if additional space is needed, communicates with a remote server to ensure that the server has a copy of one or more data items before deleting those data items from the mobile device to create additional memory space, as recited in claims 26 and 33.

The Final Office action relies on the teachings of the Achiwa reference for the claim limitations relating to determining if a copy of one or more data items are stored on a server, and if so, then deleting the one or more data items from the mobile device. This conclusion is explained in the Final Office action at page 2, as follows (with emphasis added):

...Examiner respectfully submits that Achiwa copies file to storage server before deleting the copy at the client site (See [0054]) and establishing link of the deleted file to the storage server. *Considering the deleted file needs to be referenced by the client site via a link pointing to storage server, Achiwa does ensure that a duplicate copy of the file is stored on the server prior to deleting the file from the client.*

The Assignee submits that the Examiner's interpretation of the Achiwa reference, as recited above, is incorrect. The Achiwa reference describes a file transfer method in which files are moved from a storage client site to a storage server site and are then deleted from the storage client site. Achiwa also teaches that after the file has been moved to the server site and deleted from the client site, a "symbolic link" is created at the client site to refer to the file in the server site. (See, Achiwa, paragraphs 0052-0054.) The Final Office action concludes that the creation of this "symbolic link" is equivalent to ensuring that a duplicate copy of the file is stored on the server prior to deleting the file from the client. This conclusion is incorrect. Even assuming *arguendo* that Achiwa's "symbolic link" could be somehow be interpreted as providing a determination that the data item is stored on the server, the Achiwa reference is clear that the "symbolic link" is create only after the file has already been deleted from the client. (See, Achiwa, paragraphs 0052-0054.) For example, the Achiwa reference describes the creation of the "symbolic link" at paragraph 0054, as follows (with emphasis added):

"... Next, the local copy of the file in the storage client site is deleted. *Then*, a symbolic link is created in place of the deleted file to the file at the storage server site."

Accordingly, the Assignee maintains that the rejections of claims 26 and 33 in the Final Office Action are incorrect. Nonetheless, to make this distinction even more clear, claims 26 and 33 have been amended to clarify that the mobile device verifies that copies of the one or more data items are stored in the server application database before the one or more date items are deleted from the memory subsystem on the mobile device. This is clearly not disclosed or suggested by either of the cited references. Accordingly,


the Assignee respectfully requests that the rejections under 35 U.S.C. § 103(a) be withdrawn in light of the current amendment.

For at least these reasons, the Applicant submits that claims 26, 27 and 33-36 are patentable over the cited references and are in condition for allowance.

New Claim 41

New claim 41 is also patentably distinct from the cited references. For example, among other distinctions, none of the cited references teach or suggest a mobile device that includes a remote search module configured to receive a search result from a server that identifies one or more copies of data items stored on the server and to include the one or more copies of data items in a list of data items identified in the server application database, where the list of data items is accessed by a memory management system to identify one or more data items for deletion from a local application database. Accordingly, the Assignee submits that claim 41 is also in condition for allowance.

Respectfully submitted,



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